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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/736,116

12/16/2003

Josef Maatuk

3623

7590

07/20/2006

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EXAMINER

WEST, PAUL M

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



### DETAILED ACTION

1. Claims 16-18, 20 and 31-39 are rejected under 35 U.S.C. 135(b) as being made more than one year from the date on which U.S. Patent No. 6,546,796 was granted. See *In re McGrew*, 120 F.3d 1236, 1238, 43 USPQ2d 1632,1635 (Fed. Cir. 1997) where the Court held that the application of 35 U.S.C. 135(b) is not limited to *inter partes* interference proceedings, but may be used as a basis for *ex parte* rejections.
2. The new or amended claims above were made more than one year from the patent date of U.S Patent No. 6,546,796 and therefore cannot be used to suggest an interference with said Patent. Furthermore, none of the claims which were made in the instant application prior to the expiration of the one year period, are considered to have the same or substantially the same subject matter as any of the claims in the Patent No. 6,546,796.

### Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul M. West whose telephone number is (571) 272-8590. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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